

### **REMARKS**

Please reconsider this application in view of the above amendments and the following remarks.

- Claims 1-6, 8-20, 22-24, 26-34 are pending.
- Claims 1-6, 8-20, 22-24, 26-34 are rejected.
- Claims 7, 21, and 25 are withdrawn.

Applicant has amended the abstract to address the examiner's comments.

Applicant has amended the claims, as set out above. The Examiner can find support for these amendments in the specification and claims, as filed. These amendments do not add new matter.

### **Claim objections**

Claims 4 and 14 have been amended to address the objection related to the lack of antecedent basis for the term "stent." As to the term "surface," Applicant points out that all physical objects have a surface. Therefore, "surface" inherently has antecedent basis.

### **Claim rejections**

#### **Rejections under 35 USC §112**

The Examiner is not clear why one of ordinary skill in the art would add a solvent and then evaporate it. Applicant directs the Examiner's attention to page 4, line 22 of the specification, as filed. Generally, adding a fluid to a semicrystalline or an amorphous substance preferentially dissolves the smaller crystallites or amorphous material because these portions have higher surface areas per volume from which to dissolve than do larger crystallites. When the solvent evaporates, the dissolved substance begins to recrystallize. But recrystallization proceeds more rapidly when there are seed crystals to initiate it. The

existing undissolved substance provides many such seeds, causing the recrystallizing material to preferentially crystallize on the undissolved portion of the substance. Therefore, the overall result of adding a fluid to a substance and then letting it evaporate is to move material from smaller crystals to larger ones. Said another way, adding a fluid to a substance and then letting it evaporate is not the same as not adding the fluid at all -- these steps increase the crystallinity of the substance.

Applicant trusts that this discussion adequately clarifies claim 1.

Claim 10

"Structural derivative" is a derivative of the structure and is well known to those of ordinary skill in the art. "Functional analog" is a substance with analogous function. The structure and function of the rapamycin compound are disclosed in the specification, as filed, page 39, line 8 -- page 40, line 23.

These terms meet the requirements of 35 USC §112. Therefore, Applicant requests that the Examiner remove this rejection.

Claim 27

The Examiner requires clarification of a polymer that "exhibits two or more glass transition temperatures." Page 29, line 6 -- page 31, line 12 of the specification discloses how a polymer can exhibit more than one glass-transition temperature.

Please remove these rejections of these claims.

**Art-based rejections**

The Examiner has rejected claims 1-6, 8-20, 22-24, 26-34 under 35 USC §103(a) as being unpatentable over Ding et al., U.S. Patent No. 6,099,562, D1.

The Examiner has rejected claims 1-6, 8-20, 22-24, 26-34 under 35 USC §103(a) as being unpatentable over Ding et al., U.S. Patent No. 6,358,556, D2.

Neither D1 nor D2 teaches or makes obvious adding a fluid to the dry coating. Neither reference teaches or makes obvious allowing this fluid to evaporate. As discussed above, both of these steps affect the device.

Because of this, neither reference combined with the knowledge of an ordinarily skilled artisan teaches or makes obvious each and every element of claims 1 or 29. Therefore, claims 1 and 29 are patentable over the references for at least this reason. Please remove these rejections.


Claims 2-6, 8-20, 22-24, 26-28 depend from claim 1, and claims 30-34 depend from claim 29. Therefore, these dependent claims contain each of the elements of claims 1 and 29, respectively. This content makes these dependent claims patentable over the cited references combined with the knowledge of an ordinarily skilled artisan for at least the reasons given for the parent claims.

Furthermore, because prima facie obviousness or anticipation has not been made out, Applicant is under no duty to address the remainder of the Examiner's discussion in this section of the office action including the discussion of the dependent claims. But should such a duty arise in the future, Applicant reserves the right to address that discussion then. Applicant specifically does not acquiesce to the facts, assumptions, or reasoning contained in this section.

Please also reconsider the previously withdrawn claims as they depend from an allowable claim.

Since all claims are in a condition for allowance, please issue a Notice of Allowability so stating. If I can be of any help, please contact me.

Respectfully submitted,

  
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